

Nadler FOIA Request to EPA Demands Answers

Wednesday, 15 October 2003

Washington, DC—After repeated attempts to obtain important documents from the Environmental Protection Agency (EPA) on its failed response to the terrorist attacks of September 11, 2001, Representatives Jerrold Nadler (D-NY), Major Owens (D-NY) and Anna Eshoo (D-CA) submitted a Freedom of Information Act (FOIA) request today to collect information that the EPA has kept hidden for over two years.

Among the information requested by the members is documentation regarding the EPA's own report entitled "Lessons Learned in the Aftermath of September 11, 2001," dated February 1, 2002, in which the EPA admits that decisions following the terrorist attacks were made "with incomplete information, and political decisions were prominent." Nadler, Eshoo and Owens also requested documentation relating to communication between the White House and EPA and the EPA's Inspector General report issued in August on the EPA's actions following 9/11.

"If EPA's 'Lessons Learned' report documents deceit and neglect within the Agency, then the American people deserve to know about it. EPA's decisions after the terrorist attacks have a direct impact on the health and lives of New Yorkers. Two years later the EPA still fails to answer questions from the public, including who at the White House was involved in doctoring public statements regarding air quality following the attacks and why the EPA still refuses to clean up indoor spaces contaminated with WTC dust," stated Nadler.

The FOIA request follows recent reports, including one released in August by the EPA's own Inspector General, that raise serious questions about the way the federal government responded to the health crisis created by the terrorist attacks in New York City, and in particular, the White House's involvement in instructing EPA officials to downplay health concerns to people living and working near Ground Zero. The New York Times reported last week that new documents from the Inspector General's report depict "screaming matches" between the White House and EPA over how to communicate the potential environmental and health risks to people exposed to World Trade Center contaminants.

The FOIA request is not the first attempt by Members of Congress to obtain information regarding the EPA's response to 9/11. In September, Nadler joined Democratic Leader Nancy Pelosi and Committee Ranking Members John Dingell (D-MI), John Conyers (D-MI), George Miller (D-CA), and Henry Waxman (D-CA) in calling on House Speaker Dennis Hastert to launch a Congressional investigation into the EPA's actions in New York City following the collapse of the World Trade Center. Mr. Hastert has yet to announce plans for an investigation.

"We have called for a Congressional investigation which the Republican leadership in the House refuses to launch. I am hopeful that by issuing this FOIA request, we can get to the bottom of who at the EPA and White House was responsible for making decisions that repeatedly put the health and lives of New Yorkers at risk. It is time for the EPA to stop hiding behind the Republican President and Congress and give the American people some answers," stated Nadler.

The text of the Nadler, Owens and Eshoo FOIA request to the EPA is as follows:

October 14, 2003

Marianne Lamont Horinko
Acting Administrator
Environmental Protection Agency
1200 Pennsylvania Avenue NW
Washington, DC 20460

Dear Acting Administrator Horinko:

As Members of Congress representing people who live and work around Ground Zero, or who traveled to New York City as part of the rescue and recovery operations, we are writing to request important information regarding the Environmental Protection Agency's (EPA) response at the World Trade Center following September 11, 2001.

Recent reports, most notably one by the EPA Office of Inspector General (OIG), raise serious questions about the federal government's response to the environmental fallout from the collapse of the World Trade Center, in particular, the involvement of the White House in directing EPA to downplay health concerns to people living and working near Ground Zero. As reported in the New York Times last week, new documents from the OIG Report depict "screaming matches" between the White House and EPA over how to communicate the potential environmental and health risks to people exposed to WTC dust.

In order to fully understand the federal government's response following September 11th, we respectfully request that you provide the attached list of documents regarding the White House and EPA's relationship in managing the environmental issues at the WTC, the supporting documents to the OIG Report, and the supporting documents to the EPA's "Lessons Learned" report conducted by the Agency immediately following September 11th, 2001. The Lessons Learned report states that decisions were made "with incomplete information, and political decisions were prominent," and that "there were conflicting demands placed on individuals from high levels of government outside of EPA who lacked knowledge regarding emergency response."

Many of these documents have been requested in the past, but they have yet to be released. Therefore, as an added measure, we are submitting the same request under the Freedom of Information Act (FOIA). However, given the urgency of the situation and the importance of this issue to our constituents, we hope that we do not have to go through the full FOIA process, and that you will supply the requested documents in a timely manner.

Thank you for your prompt attention to this matter. If you have any questions or concerns, please do not hesitate to contact us.

Sincerely,

Jerrold Nadler	Anna Eshoo	Major Owens
Member of Congress	Member of Congress	Member of Congress

October 14, 2003

National Freedom of Information Officer: Betty Lopez

U.S. EPA, Records, FOIA & Privacy Branch

1200 Pennsylvania Avenue NW (2822T)

Washington, DC 20460

Dear Ms. Lopez:

Under the Freedom of Information Act, we are requesting the following documents to be delivered to the office of Congressman Jerrold Nadler, 2334 Rayburn House Office Building, Washington DC, 20515.

- Please provide any and all physical and electronic records and documents in the EPA's possession related to communication between the White House and the EPA from September 11th, 2001 until present regarding the response to the terrorist attacks at the World Trade Center and Pentagon including, but not limited to:

- Results and analyses of environmental monitoring;
- Communication of hazardous substance risks to residents and workers;
- Decisions about the selection and use of respiratory protection (respirators, dust masks, etc) for workers and residents;
- Indoor sampling and reoccupation issues of residents, workers and people returning to schools following the collapse of the World Trade Center in New York;
- The chain of command and emergency response decision-making authority at the World Trade Center in New York, and at the Pentagon in Virginia;
- All emails between EPA officials, including, but not limited to, Administrator Christine Todd Whitman, Whitman's Chief of Staff Eileen McGinnis, Deputy Administrator Linda Fisher, Fisher's Chief of Staff, Assistant Administrator Marianne Lamont Horinko, Horinko's Chief of Staff, and Regional Administrator Jane Kenny and the White House regarding the World Trade Center case.

- Please provide any and all physical and electronic records and documents obtained or developed by the EPA Office of Inspector General (OIG) for the report "EPA's Response to the World Trade Center Collapse: Challenges, Successes and Areas for Improvement" (Report No. 2003-P-00012), including but not limited to:

- All interviews conducted by the OIG for the report, including those of EPA, OSHA and White House officials;
- All emails obtained by the OIG, including those between the White House and the EPA, and OSHA and EPA;
- The May 2002 memorandum from the EPA Region 2 Administrator that provided FEMA the necessary justification to authorize funding for the Indoor Cleanup Program referenced on page 48 of the report;
- All drafts of the OIG Report;
- Documents related to the decision not to allow EPA air monitoring teams on the World Trade Center "pile", and only

allow them around the perimeter;

- All documents from the "government hearing record" referenced in the report;
 - List of all EPA and White House officials involved in any way in drafting and releasing the OIG report;
 - Name of the official who determined which officials would be interviewed for the OIG Report.
- Please provide any and all physical and electronic records and documents obtained or developed by the EPA for the report "Lessons Learned in the Aftermath of September 11, 2001" dated February 1, 2002, including, but not limited to:
- All interviews and questionnaires;
 - All documents, including logs and meeting notes of the Environmental Assessment Workgroup Conference Calls referenced in the report, and New York City daily conference calls in which EPA participated.
 - Copies of all Mission Assignments and the justification for each;
 - List of all On-Scene Coordinators deployed to the World Trade Center in New York, and to the Pentagon in Virginia, the duties they were assigned to, and the date they were removed from those duties;
 - Copies of all fact sheets developed by the EPA and other public agencies, such as ATSDR, concerning the health effects associated with pollutants.

Thank you for your prompt attention to this request. Please do not hesitate to contact us if you have any questions or concerns.

Sincerely,

Jerrold Nadler	Anna Eshoo	Major Owens
Member of Congress	Member of Congress	Member of Congress